P.7. 53-94

G. R. S. IX-5]

Previous references.

(1893-94.)
192
(L. R.)

File No 122-93.

Serial Nos. 1-7.

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-7.

In ~~Part~~ B for November 1894.

SUBJECT.

Appeal of Bidre Malappa, Shimoga Taluk, for the Patel Office of the said Village --.

W.D. 2228 GPB—20,000—12-6-20

Countermarked
by
Indexed

Rev. Case No. 1 of 1893-94 in the file of the 1st Appellate Jurisdiction Court - Shimoga District. (1)

Plaintiff

Halagiri Lingappa Son of Hirappa Adult, Residing at Kere Nagasi Shimoga Taluk

vs

Defendant

1. Patel Lingappa Son of Nanjappa (Minor) represented by his Guardian Nanjappa Son of Pattisomappa Kowda

2. Lingappa Son Channabasappa

Judgment

The plaintiff sues for the declaration of his right to the Patelki of Kere Nagasi Shimoga Taluk.

The plaintiff's case is:-

1. His Patelki having been hereditary to the plaintiff's family he succeeded was in the name of Nagappa Son of plaintiff's grandfather's brother. He resigned the office in 1877. He had no issues at the time and the plaintiff was a minor of 4 or 5 years old. Instead of the office being registered in the name of the plaintiff according to "Varas" it was conferred in Hukum No. 202 dated 11th December 1877 in favour of Nanjappa Son of

(3)

(3) The plaintiffs age now is more than 22 years -

(4) The 1st defendant and his father Ravalia are not only Hakdars to the office according to law but they were also appointed to it by government.

(5) The plaintiff is not entitled to institute this suit -

(6) There is no cause of action against the 2d defendant.

(7) Ranjindappa was the father of the plaintiff Halappa, Doddarudrappa was the father of the said Ranjindappa the said Doddarudrappa had an Elder brother named Halappa.

The said Halappa was the Baravaru to the office of Patil of Hidare Village previous to 1877. and he was Kuderappas own father. This Halappa was the adopted son of Kuderappa own grand-father of the said Kuderappa. Consequently the Varas of the aforesaid Halappa does not Extend to the plaintiff -

(8) Consequently pray that the plaintiffs suit may be dismissed with

1910.

(9) The genealogical table of the 1st and 2nd defendants is herewith submitted. (4)

3. The following issues are framed.

(1). Who is the Hakdar to the Patili of Badare village mentioned in the plaint. Is it the plaintiff or the defendant?

(2). How did Ravalappa the 1st defendant acquire the "Hak" and when?

(3) Whether there is cause of action against the 2nd defendant.

(4) How does the genealogical table concerning the both parties stand?

(5) What is the present age of the plaintiff?

(6) Is the suit barred by limitation?

(7) What relief the plaintiff is entitled to obtain?

4- The plaintiff having Examined four of his witnesses produced the following Exhibits.

(A) Horoscope of the plaintiff - 9th day of the dark fortnight of Karthika of the year Angirasa

(B). Extract of the Police Settlement of 1886.

(6). Do — Barabaluli register of 1841.

the Respondent proceeded further thereto

2. Subsequently the said Transcript
of the Petition purported to
be on the 1st Defendants name and
as the case came before the 2nd
Defendant his Counsel (with leave) then
as his pleadings. His name accordingly
Sanctioned.

3. As the Defendants did not consent
in the Pleadings to Vacate the office
in favour of the Plaintiff Thereby
according to Hindu Law he is the principal
Executor to the office, the Plaintiff
prays that the Petition filed in the
1st Defendants name may be caused
to be made in his name, that the
office which the 2nd Defendant now
in charge of may be ordered to be
handed over to his charge and that
the Cost incurred by him may be
ordered to be paid by the Defendants.

1st Pro. Mr. K. Srinivasa
Rao and 2nd Pro. Mr. M. Rama-
-krishnaiah having appeared on
behalf of both the Defendants
and argued the case, presented
the following Written Statement:
(1) The Suit is barred by limitation.
(2) The Plaintiff is in accordance with
the Hindu Law, not entitled to the Petition.

(D). Endorsement dated 6-8-92 framed by ~~Narasimhaiah~~ plaintiff Ramaiah from Shamsabad.

(E) Do - Do - dated 24-11-92

(F) Do - Do - dated 21-9-93

5. The defendants did not Examine any witness.

Narasimhaiah has produced Ex'ble No B Marked I, dated 1st July 1877. signed by the Chairman of Bidari Taluk office.

It is evident from the Exhibits filed in this Suit and also from the Statements of the witness on behalf of the plaintiff that previous to 1877 Narasimhaiah and Ramaiah the Sheristadar and younger brother respectively of plaintiff found favour and after their Ramaiah son Narasimhaiah were conducting the office of Patel of the Bidare Village. The defendants admit this. There is no doubt about the point. The said Narasimhaiah who was conducting the duty in the above year, he having resigned the office, the Patelship was, by the order from the District, issued in the name of Narasimhaiah the younger brother of the 1st defendant. He

(7)

Reference to Substantiate it. Balin order to strengthen his statement he has produced two Endorsements to-
-wards to him from the Shemoga Taluk to show that the Hukum issued from the District in 1877 appointing Ravalappa as Patil was since destroyed. If as stated by him Ravalappa had been appointed conditionally it would have been mentioned in the Notice Register prepared in 1886 from the previous records. Instead of this it is simply mentioned in the Register that Ravalappa has resigned. Consequently as the plaintiff seems to have made his witness to urge this vain reason on the support of the distinction of the Hukum of that year, there are not sufficient grounds to debar on mere presumption the ~~Hak of the~~ 1st defendant of the Hak which he has been enjoying continuously for upwards of 15 years. Moreover as regards his age it is seen from the horoscope pro-
-duced by him that he was 18 years and

December 1890. The cause of action has arisen from December. He therefore argues that his suit is in time. The alleged horoscope is written on a small piece of paper. No proper ground was adduced to suppose that it was written at the time of his birth. Only the 5th witness Veerabhadria states that he was present at the time when this was written. He is not well versed in writing. He states that no correspondence had taken place between him and Cheenaveerappa whom he alleges to have written this. Consequently there is not sufficient weight to rely in ~~there is reason~~ of his statement ~~asserting~~ that the horoscope is in the handwriting of the said Cheenaveerappa. The 18th witness on behalf of the plaintiff says that the plaintiff's father died 20 or 30 years ago and that the plaintiff might have been 4 years old at the time. Though on admitting his ~~statement that~~ under age viz, 20 years referred to his statement the plaintiff's does not seem to be less than

(8)

has not only conducted his duties since
his last visit to the institution from
the Extract of his Pupils Exhibit-
-ment B, that during the Pupils Settle-
-ment of 1886 he was equally diligent
also confirmed by the officers. It is
understood from the Statement of
witness that though the plaintiff
and the defendants are divorced from
Common Consent they have been
living separately from the beginning
i.e from a very long time. The book
which has been in the family of the
plaintiff having been received by
the officials of this own accord it
was compared in the Company's a
Separate family. It is an important
point to be considered that from
the plaintiff has to again this book.
Though he has not stayed any longer
reason for this yet it is stated in
the Statement of Simon Rodrigues, the
2nd witness in the behalf. Simon
Rodrigues states that the plaintiff
confessed in Rodrigues on the Con-
-dition of his leaving it when asked
for. Excepting the Statement there
is no he has not produced any

(10)

Petition No 3609 of 1893-94.

Appellant:
Kalappa
of Bidare, Shimoga
Taluk.

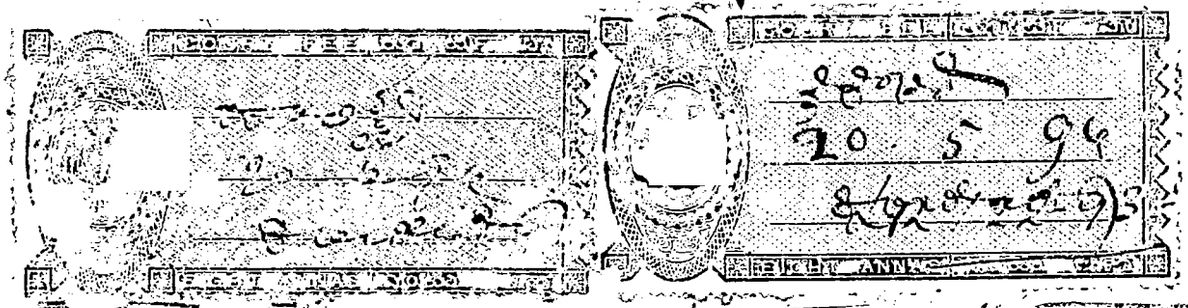
Respondents
1. Rudrappa, minor
by father and guardian
Gowdappa
2. Siddappa.
represented by
Mdg. Narasimhiengar
and Lakshmanaya
Pleaders.

Notices Served
27. 9. 94. ~~Mr B. Ramgowdappa~~

23rd Sept. 93 at the date of the institution of this suit. Consequently it may be said that the suit is also barred by limitation.

Under the circumstances it is decided that the plaintiff has no right at all to institute this suit. And the suit is therefore dismissed. It is directed that the plaintiff in addition to having his own cost should pay the costs of the defendants.

30-11-93 Sd. N. Chalmers Cooper.
Rev. Appl. Jurd.



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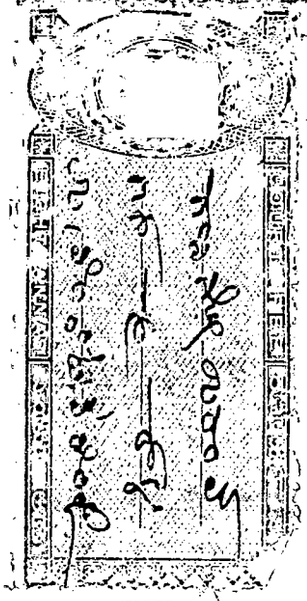

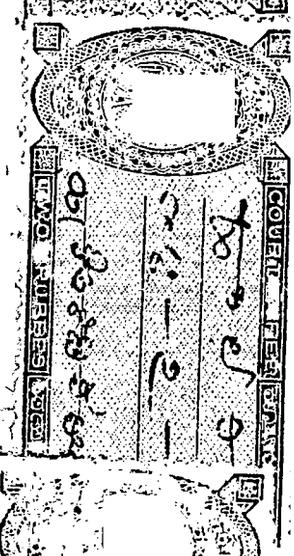

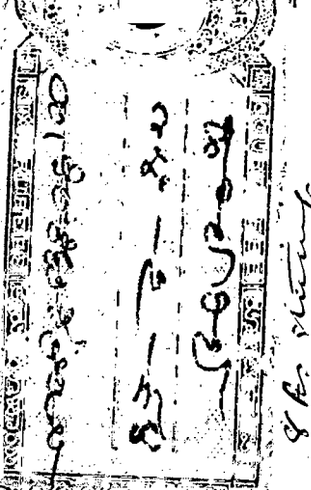

No. 3607

In the Court of the Amildar
Sworn to this [illegible]
of Mysore

Revenue Appeal No. 94-95

Appellant
Kallaiah s/o
Ramandaiah
residing at Kire
Kallu Shungu

Respondents
1) Ramaiah son of
Kallaiah s/o the guardian
and father of Nagaiah
2) Nagaiah s/o Kallaiah
residents of Kire Kallu
Shungu

Kallaiah the appellant named above
most respectfully begs to appeal to this
Hon'ble Court against the decree and
judgment of the Asstt. Commissioner
of Shungu in Revenue appeal No. 29/93-94
dated 28th March 94 in the following
grounds:—

1) That the lower Court has
erred in considering that Kallaiah
has the mythical ancestors.

2) That admitting the fact, even
a divided one from a long time and
that the lands formed part of the Kallaiah
in question was all along enjoyed
officiated by the Kallaiah ancestors

Kallaiah

(13)

and, also that Plff's grand father was
divided from the rest of the family, was
the person who acquired the right first.
(Vide Patali Register 1741), both the Lower
Courts have erred in considering that
1st Defts claim is, as good, as that of the Plff.

3 That the Patah in question which was
being enjoyed by the Plff's divided, ancestor
in rotation, as the same is not capable
of division, though resigned by Rudrappa
in 1877 when the Plff was admittedly a
minor, and though the Plff's illeterate father
who was then alive did not claim it there
and there, the Plff does not loose his right,
which every member of a Hindu family
acquires by birth in undivided and ancestral
property.

4 There is not an iota of evidence on
record to prove the alleged adoption.

5 The Plff has satisfactorily proved his case

6 That the Judgment of the Lower Court
is against Law, weight of evidence and
the probabilities of the case.

ಅಪೀಲುದಾರ

Shimoga
18th June 1894

No 3609.

30 JUN. 94

The Appeal petition filed & these
two letters are transcripts of
the petition & Dy. Commr's
letter of the 10th inst. The
petitioner has been
informed that it is returned
for deficiency of stamp & to be made
good. Time allowed fifteen days.

By Order.

Bangalore
30-6-94.

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. No. 1862
DATE 1/7/94

Insufficient stamp of Eight annas
annexed and cancelled
on the 4th July 1894

The above order No. 3609 received
by me through Post on the 10th July 1894.

Pet V
256

20300
20-8

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

(15) (3)

OFFICIAL MEMORANDUM.

LR 122-93-3.

The accompanying Petition No. 186
dated 10th July 1894 received at the
Dewan's Office from Halappa of Bi
Shimoga Taluk, appealing aga
the order of the Deputy Commissio
Shimoga District, regarding t
tack for the Patelship of Mr Jai
Village
is forwarded, together with its 4
enclosures, to the Deputy Commissio
Shimoga District for submission
Culture
of the Proceedings connected with the Ca
~~the facts of the case and on the po~~
~~urged in the petition~~.

The Petition with its enclosure
should be returned

By Order,

Chief Secretary.

BANGALORE. 8th
August 189 4.

13/8

M.G.C.P., Bangalore.—3-5-94.—1,000.

LR 122-93-2

United Provinces

(1) Petition for Permit

(2) Application forwarded on the 9th day Originally insufficiently Stamped. The deficiency in Stamp was made good 2 days after the time allowed. Peb says that he received the Permit returned from the Office on 10 July 94

(General Serial No. 22.)

1894

(2)

No. 136

Name of Petitioner. [illegible]

Village. Baire

Taluk. Mangalore

District. [illegible]

Date of Arri. 10-7-94

Date of Receipt. 17-7-94

Date of Disposal.

No. of Enclosures. four 2

ABSTRACT.

Petitioner submits his petition with application insufficiently stamped. Requisite is fixed thereon and duly cancelled. No: 36 dated 30th June 1894.

17/7

17/7

23/7

The date on the envelope is illegible

[illegible]

[illegible]

LR 122-93-4

Posted to 27 September.
Give notice to both parties
11/9
Notices issued
11/9/94.

(General Serial No. 30.) 2750
31 AUG. 94
189 G.S. 5 Ext 149

From The Deputy Commissioner
Nilgiris District

(4)

To

The Chief Secretary to the Dewan
of Mysore.

Dated 27 August 1894

Despatched

Received

Enclosures No. 5 & a file of records

General No. 175
No. 143
} 1894-95

In reference to his Confl. Proceedings No. 256 dated 8th inst. returning the Petition from Palaniappa Pillai with Appeal and Original records ——

Pet March
29/8

Rec'd
31/8/94

LR 122-93-5

Before the ~~Government~~ of *His Highness* the Maharaja of Mysore.

(5)

Petition
~~Appeal~~ No. 3609 of 1893 94

Appellant.
Malappa of Bordure
Shimoga Taluk
represented by M^r D.
Venkatarammayya
Advocate

Vs.

~~Petition~~

Respondents
(1) Rudrappa, minor
by father and guardian
Navalappa
(2) Sivappa
Gumasta of the pt
Respondent
represented by Messrs
Narasimmiengar
and Lakshmanaiya
Pleaders

Decision of 16 10 94

One Rudrappa who was the registered patel of Bida Shimoga taluk, resigned the Office in 1877, when 1st Respondent's father, who was his distant collateral was appointed to the Office

2. In June 1893, Appellant brought a suit for the recovery of the Office, on the ground that he was a nearer heir to Rudrappa who resigned the Office in 1877. The suit was dismissed by the Assistant Commr

on the ground that it was barred by the Law of Limitation and this decision was confirmed on appeal by the Deputy Commissioner. The present appeal is by Plaintiff.

(19)

3. Appellant admits that his father was alive when Rudrappa resigned the Office and when Ravalappa was appointed in his stead. This took place in 1877; and as the cause of action, if any, accrued during the life-time of appellant's father, the limitation began to run from 1877 and this suit which was brought in 1893 was clearly barred by limitation.

4. At the hearing, it was also urged by the appellant's advocate that appellant has been in possession of the inam lands attached to the Office, and that, on that ground, the suit

1894-95

From the Deputy Commissioner
Shimoga District
To The Chief Secretary to the
Govt of Mysore
dated 27th August 1894.
No 175/143 & 1894-95.
a file of
En 5 & Record

His official Record and Enclosure
En Ref 256 dated 8th instant forwarding
a Petition from Balappa & Brothers
with enclosures regarding the Patel
Watan of the said village and re-
questing the submission of the
Records relating to the Case -

In returning the Petition with
enclosures received therewith he
the favour to forward the proceedings
in Appeal No 2 of 1893-94 on the
file of this Court and the Records
in Civil Suit No 1 of 1893-94 on the file
of the 1st Assistant Commissioner's
Court Shimoga District -

Chas Rubinson
Asst Commissioner

No. 3609 LR 122-93-6

(6)

MYSORE DEWAN'S OFFICE,

PETITION DEPARTMENT,

25th October 1894

(21)

Endorsement granted to Halappa of Bidari Shimoga Taluk (by Mr D. Venkataramiah advocate

in reply to his – Petition Registered No. 3609 dated 10 July 1894 appealing against the Shimoga Deputy Commrs order regarding his claim for the patels of the said village

Petitioner is informed that his appeal has been dismissed

2 The enc: are returned

11/10

"By Order"

11/25/10 Draft

Sd 26/10

for Chief Secretary.

mk.

M. C. C. P. Bangalore—6-3-94.—2000.

suit should be remanded for disposal on its merits, but this is altogether a new plea, not urged either in the original Court or before the Deputy Commr. The appeal is, therefore, dismissed

By Order
Asst Clk
for Chief Secretary

Received
No 7255
Dated 3-9-96

Copy to the Deputy Commr Shimoga with a copy of the records received with his letter No 143 dt 27-8-96

By Order
Asst Clk
for Chief Secretary

Ufs/10

LR 122-93-7

10-11-94

(6)

3609.